



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 13, 2024

BY ECF

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: United States v. Juan Orlando Hernandez, S7 15 Cr. 379 (PKC)

Dear Judge Castel:

The Government writes in response to the defendant's February 13, 2024 letter regarding access to the defendant's supplemental Classified Information Procedures Act ("CIPA") Section 5 notice (the "Supplemental CIPA Section 5 Notice"). The Government has conferred with the Classified Information Security Officer ("CISO"), and understands that cleared counsel has had access to a completely unredacted version of the classified Supplemental CIPA Section 5 Notice as recently as this afternoon, and that the CISO has been and remains available to facilitate cleared counsel's access to the classified Supplemental CIPA Section 5 Notice until tomorrow's hearing.

On February 11, 2024, the CISO provided counsel with multiple versions of the Supplemental CIPA Section 5 Notice reflecting classified information, including (i) a classified fully unredacted version; and (ii) a classified version with limited redactions to seven of the forty-three total paragraphs contained therein. Since that time, cleared counsel has been able to retain in their sensitive compartmentalized information facility ("SCIF") the classified, partially redacted version of the Supplemental CIPA Section 5 Notice and also, with the assistance of the CISO, is able to review the classified fully unredacted version. The Government's understanding of the defense's February 13, 2024 letter is that cleared counsel would like to maintain the classified fully unredacted version of the Supplemental CIPA Section 5 Notice in the defense SCIF. However, certain of the information—the limited portions in seven of the paragraphs—is of a nature that requires additional safeguards and precludes maintaining the classified fully unredacted version of the Supplemental CIPA Section 5 Notice in the defense SCIF. These safeguards, do not preclude cleared defense counsel from reviewing the classified fully unredacted version of the Supplemental CIPA Section 5 Notice, so long as that version is maintained and stored by the CISO.

The safeguards applicable for the material redacted in the classified, partially redacted version of the Supplemental CIPA Section 5 Notice preclude defense counsel from documenting

the redacted information on the computers available in the SCIF, but those safeguards do not preclude cleared counsel from taking handwritten notes about the material that are maintained by the CISO or verbally discussing the material at the upcoming February 14, 2024 classified hearing. At the February 14, 2024 classified hearing, the Government understands that the CISOs will provide to the Court and the parties versions of the Supplemental CIPA Section 5 Notice reflecting all classified material, including that which requires additional handling safeguards.¹

The Government remains available to answer any questions that may arise from the defense about their access to the Supplemental CIPA Section 5 Notice.

Respectfully submitted,

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By: /s/
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cc: Defense Counsel (by ECF)

¹ The CISOs will also provide to the Court and defense counsel the classified fully unredacted version of the Supplemental CIPA Section 5 Notice, which contains any unclassified portions as well, and to which the Government is not privy.